

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR No. 3339 of 2015
Date of decision : 19.01.2016

Thakur Chand
....Petitioner

V/s

State of Punjab
....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Vishal Aggarwal, Advocate for the petitioner.
Mr. Shilesh Gupta, Addl. A.G. Punjab.

RAJAN GUPTA J.

Petitioner had been convicted by the Judicial Magistrate Ist Class, Pathankot under sections 279, 337 & 304-A IPC and was sentenced to undergo imprisonment as under:-

Offence	Sentence
279 IPC	To undergo R.I. for six months and to pay fine of ₹500/- and in default thereof to further undergo R.I. for 15 days.
304-A	To undergo R.I. for a period of two years and to pay fine of ₹2000/- and in default thereof to further undergo R.I. for one month.
337 IPC	To undergo R.I. for a period of six month and to pay fine of ₹500/- and in default thereof to further undergo R.I. for one month.

The petitioner preferred appeal before Additional Sessions Judge, Pathankot against the judgment of his conviction/sentence. Vide judgment dated 10.06.2015, same was dismissed. Feeling aggrieved against the judgments of both the

courts below, petitioners have approached this court through the instant Criminal Revision.

Learned counsel for the petitioner at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. He states that he is conscious that scope in the revision is very limited as evidence of the witnesses cannot be re-appreciated or re-evaluated.

Learned State counsel, on the other hand submits that in case conviction of petitioner is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:

On 14.06.2010 at about 11.00 a.m., complainant Joginder Pal was returning to his village Lamini from Amritsar. His cousin Subhash Bagga alongwith his wife Balwinder Kaur also accompanied him on their motorcycle bearing registration no. PB-02F-0642. At about 11.00 a.m. when they reached near Jakho Lahri, one truck bearing registration no. HR-55F-2805 coming from Amritsar to Pathankot side driven by the accused (petitioner herein) in a rash and negligent manner at a high speed struck against the motorcycle of his cousin. Resultantly, his cousin and wife Balwinder Kaur fell down on the road and suffered grievous injuries. They were admitted to Janjua Hospital. However, Balwinder Kaur later succumbed to her injuries whereas Subhash Bagga suffered minor injuries. On this statement, FIR was registered by the police. After

completion of investigation, challan against the accused was presented in the trial court.

Finding prima facie case under sections 279/304-A/337 IPC charge was framed against the accused/petitioner, to which he pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as nine witnesses.

The statement of the accused under Section 313 Cr.P.C. was recorded, wherein all the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. The accused, however, did not examine any witness in his defence.

On the basis of the evidence on record, learned trial court held the petitioner guilty of the charge under sections 279/304-A/337 IPC and sentenced him as already indicated above. The appeal filed against the said judgment was also dismissed by the learned Additional Sessions Judge, Pathankot.

On perusal of the judgments of both the courts below, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the petitioner guilty of the charge framed against him. The appellate court has also rightly dismissed the appeal. There is no infirmity or illegality in the findings given by both the courts below. The conviction of the petitioners is, thus, affirmed.

Even counsel for the petitioners, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the petitioner is poor person & main bread winner

of his family. He has stated that he is conscious that the scope in revision is very limited as evidence of the witnesses cannot be re-appreciated and re-evaluated.

Learned State counsel has already placed on record affidavit of Arvinder Pal Singh Bhatti, Deputy Superintendent, Sub Jail, Pathankot according to which petitioner had undergone total custody of five months and eighteen days as on 28.10.2015. According to him, petitioner has undergone custody of around nine months till date.

Keeping in view the facts and circumstances of the case, it is directed that the sentence awarded to the petitioner shall be reduced to one year. But the petitioner is burdened with a fine of ₹30,000/- to be paid as compensation to the legal heirs of the deceased. Ordered accordingly.

The amount of fine shall be deposited within three months from the date of receipt of certified copy of this order. However, in case fine is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the petitioner shall undergo the remaining period of sentence as awarded by the trial court. Except with modification in the quantum of sentence, as indicated herein above, the revision petition is dismissed.

January 19, 2016

Ajay

(RAJAN GUPTA)
JUDGE